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17 **UNITED STATES DISTRICT COURT,**
18 **NORTHERN DISTRICT OF CALIFORNIA**

19 NATIONAL ABORTION FEDERATION) Case No. 3:15-cv-3522 (WHO)
20 (NAF),)
Plaintiff,) Judge William H. Orrick, III
vs.)
21) DEFENDANTS' OBJECTIONS TO
22) EVIDENCE IN SUPPORT OF NAF'S
23) MOTION FOR ORDER TO SHOW
24) CAUSE RE CONTEMPT
25)
26)
27)
28)
THE CENTER FOR MEDICAL)
PROGRESS; BIOMAX PROCUREMENT)
SERVICES, LLC; DAVID DALEIDEN (aka)
"ROBERT SARKIS"); and TROY)
NEWMAN,)
Defendants.)
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2 **DECLARATION OF DEREK FORAN**

3 The Declaration of Derek Foran is fatally defective because he failed to sign it under
 4 penalty of perjury. 28 U.S.C. § 1746; Ca. Code of Civil Procedure § 2015.5. As such it cannot be
 5 considered a declaration under California law or federal law. *Network Computing Services Corp.*
 6 *v. Cisco Systems, Inc.* (4th Cir. 2005) 152 Fed.Appx. 317, 321 (unpublished); *Davenport v. Board*
 7 *of Trustees of State Center Community College Dist.* (E.D. Cal. 2009) 654 F.Supp.2d 1073, 1083;
 8 *Link Treasure Ltd. v. Baby Trend, Inc.* (C.D. Cal. 2011) 809 F.Supp.2d 1191, 1195; *Kulshrestha v.*
 9 *First Union Commercial Corp.* (2004) 33 Cal.4th 601, 612. Accordingly, it has no evidentiary
 10 value whatsoever. And none of the exhibits attached thereto can be claimed to have been
 11 authenticated. *Link Treasure, supra*, 809 F.Supp.2d at 1195.

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13 A lawyer cannot be treated as some kind of super-witness capable of substituting for the
 14 witness whose personal knowledge or expert opinion is to be proffered to the court. Nor can a
 15 lawyer's declaration under penalty of perjury make the contents of newspaper articles admissible
 16 over hearsay and authentication objections. Nonetheless, should Mr. Foran attempt to re-sign the
 17 same declaration to which is added the essential "under penalty of perjury" language and file it
 18 before the hearing occurs, Defendants would make the following evidentiary objections to such
 19 declaration:

20

21 TEXT	22 EVIDENTIARY OBJECTION	23 RULINGS
24 3. Based on a review of these videos by attorneys working at my direction, the following presentations, and the recordings that capture them, contain no content that is responsive to the congressional subpoena (which asks	25 FRE 602: Lack Of Personal Knowledge; FRE 701: Improper Opinion Testimony; FRE 802: Inadmissible Hearsay; FRE 1004, 1007: Best Evidence	26 Sustained: _____ Overruled: _____

1 for all material related to the 2 "acquisition, preparation, and sale 3 of fetal tissue" or the "manipulation 4 of abortion procedures").		
4 4. These files were produced by 5 Daleiden to Congress and, based on 6 a careful review of these videos by 7 attorneys working at my direction, 8 do not contain any material 9 related to the congressional 10 subpoena which only asked for 11 material related to the "acquisition, 12 preparation, and sale of fetal tissue" 13 or the "manipulation of abortion 14 procedures."	FRE 602: Lack Of Personal Knowledge; FRE 701: Improper Opinion Testimony; FRE 802: Inadmissible Hearsay; FRE 1004, 1007: Best Evidence	Sustained: _____ Overruled: _____
10 10. The following documents, 11 which were made available to NAF 12 meeting attendees via thumb drive 13 and which have been produced by 14 Daleiden to NAF and to Congress, 15 have nothing to do with fetal tissue procurement and do not contain material that is responsive to the congressional subpoenas.	FRE 602: Lack Of Personal Knowledge; FRE 701: Improper Opinion Testimony; FRE 802: Inadmissible Hearsay; FRE 1004, 1007: Best Evidence	Sustained: _____ Overruled: _____
16 11. Attached as Exhibit 5 hereto is a 17 true and correct copy of a 18 screenshot of a Charles Johnson 19 Facebook post dated October 18, 20 2015. In this Facebook post, 21 Johnson states: 22 "Gotnews.com has obtained all of 23 the Planned Parenthood videos, 24 thanks to a leak from Congress. The 25 videos has previously been censored by court order. Would you like to see them?" This document was obtained by taking a screenshot of the following web address: https://www.facebook.com/charles.c.johnson/posts/1020514317215908 .	FRE 801, 802: Inadmissible Hearsay.	Sustained: _____ Overruled: _____

1	12. Attached as Exhibit 6 hereto is a true and correct copy of a screenshot of a Charles Johnson Facebook post dated October 18, 2015. In this Facebook post, Johnson states: "The U.S. House of Representatives has had the rest of the Planned Parenthood videos and a few staffers have leaked them to me." This document was obtained by taking a screenshot of the following web address: 8 https://www.facebook.com/charles. c.johnson/posts/1020514354168831 8	FRE 801, 802: Inadmissible Hearsay.	Sustained: _____ Overruled: _____
10	13. Attached as Exhibit 7 hereto is a true and correct copy of an article posted on gotnews.com entitled The Man Behind The #PlannedParenthood Video And Me by Charles C. Johnson, dated July 16, 2015. This document was obtained by downloading it from gotnews.com's website, at: 15 http://gotnews.com/the-man- behind-the-plannedparenthood- videoand-me/.	FRE 801, 802: Inadmissible Hearsay.	Sustained: _____ Overruled: _____
17	14. Attached as Exhibit 8 hereto is a true and correct copy of an article posted on gotnews.com entitled BREAKING VIDEO: Planned Parenthood Rep: We Can't Stop Affiliates From Breaking The Law by Charles C. Johnson, dated October 20, 2015. This document was obtained by downloading it from gotnews.com's website, at http://gotnews.com/breaking- videoplanned- parenthood-rep-we-cant-stop- affiliates-from-breaking-the-law/.	FRE 801, 802: Inadmissible Hearsay.	Sustained: _____ Overruled: _____

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1	15. Attached as Exhibit 9 hereto is a 2 true and correct copy of an article 3 posted on WashingtonPost.com 4 entitled Controversial Blogger, 5 Infamous Hacker Team Up To 6 Release Remaining Planned 7 Parenthood Videos, dated October 8 23, 2015. This document was 9 obtained by downloading it from WashingtonPost.com's website, at https://www.washingtonpost.com/news/morning_mix/wp/2015/10/23/controversial-bloggerinfamous-hacker-team-up-to-release-remaining-planned-parenthood-videos/ .	FRE 801, 802: Inadmissible Hearsay	Sustained: _____ Overruled: _____
10	16. Attached as Exhibit 10 hereto is 11 a true and correct copy of an article 12 posted on WashingtonPost.com 13 entitled Meet The Divisive Blogger 14 Who Says He Outed Rolling 15 Stone's 'Jackie', dated December 9, 16 2014. This document was obtained 17 by downloading it from WashingtonPost.com's website at https://www.washingtonpost.com/news/morningmix/wp/2014/12/09/the-blogger-who-wants-to-take-down-rolling-stone-jackie-and-the-university-of-virginia-president/ Attached to 18 the Appendix as Exhibit 100, 19 starting at Bates number.	FRE 801, 802: Inadmissible Hearsay	Sustained: _____ Overruled: _____
20	17. Attached as Exhibit 11 hereto is 21 a true and correct copy of an article 22 posted on gotnews.com entitled 23 BREAKING: Here Are All The 24 Unreleased Planned Parenthood 25 Tapes by Charles Johnson, dated 26 October 22, 2015. This document was obtained by downloading it from gotnews.com's website, at http://gotnews.com/breaking-here-are-all-the-unreleased-plannedparenthood-tapes/ .	FRE 801, 802: Inadmissible Hearsay.	Sustained: _____ Overruled: _____

1 Respectfully submitted,

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